

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SARKIS MARQUEZ OQUENDO,

Plaintiff,

17-cv-4992 (PKC)

-against-

ORDER ADOPTING
REPORT & RECOMMENDATION

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
-----X

CASTEL, U.S.D.J.

On July 3, 2017, Sarkis Marquez Oquendo, who is represented by counsel, filed this action seeking review of the final decision of the Commissioner of Social Security (the “Commissioner”), which denied Oquendo disability insurance benefits and Supplemental Security Income (“SSI”) for numerous claimed disabilities. (Docket # 1.) This Court referred the Complaint to Magistrate Judge Sarah Netburn to hear and report. (Docket # 7.) The Commissioner moved for judgment on the pleadings pursuant to Rule 12(c), Fed. R. Civ. P., and Oquendo cross-moved. (Docket # 12, 14.) On July 6, 2018, Magistrate Judge Netburn filed a 32-page Report and Recommendation (“R&R”) recommending that the undersigned grant the Commissioner’s motion and deny Oquendo’s motion. (Docket # 17.)

In reviewing an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The R&R stated that any objections to it must be filed within 14 days and that any request for an extension of time must be made to the undersigned. (R&R at 31-32.) The fourteen-day window has elapsed, and no party has objected or requested an extension of the time to object. The


parties received clear notice of the consequences of the failure to object, and waived the right to object to the R&R or obtain further judicial review thereof. (R&R at 32.) When no timely objection has been made to a report and recommendation, “a district court need only satisfy itself that there is no clear error on the face of the record.” Arthur v. Goord, 2008 WL 482866, at *3 (S.D.N.Y. Feb. 21, 2008) (Cote, J.) (quoting Figueroa v. Riverbay Corp., 2006 WL 3804581, at *1 (S.D.N.Y. Dec. 22, 2006) (Crotty, J.)); see also Thomas v. Arn, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”).

The Court has reviewed the R&R and concludes that it is free of clear error. Magistrate Judge Netburn thoroughly reviewed the administrative record and the findings of the Administrative Law Judge (“ALJ”), specifically as to the weight that the ALJ afforded to the opinions of two consulting physicians, two reviewing experts, Oquendo’s treating physician and two nurse practitioners. (R&R at 18-32.) The R&R provided a detailed and thorough review of Oquendo’s medical history after the alleged disability onset date, including his treatment for both mental health conditions and physical ailments. (R&R at 5-15.) The R&R concluded that there was substantial evidence to support the conclusions of the ALJ that Oquendo retained the residual functional capacity to perform jobs requiring light work that exist in the national economy. (R&R at 26-31.)

The Court concludes that the R&R’s recommendations are supported by extensive and detailed discussion of the record and relevant law. Having received no objections to the R&R, and having identified no clear error, the Court adopts its recommendations in their entirety.

The Commissioner's motion for judgment on the pleadings is GRANTED and the plaintiff's motion is DENIED. (Docket # 12-14.) The Clerk is directed to terminate the motions, enter judgment for the defendant and to close this case.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'P. Kevin Castel', is written over a horizontal line.

P. Kevin Castel
United States District Judge

Dated: New York, New York
July 26, 2018